

1 AN ACT relating to copayments by medical assistance recipients.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 →Section 1. KRS 205.6312 is amended to read as follows:

4 ~~[(1)]~~***Notwithstanding any state law to the contrary,*** the cabinet ***or a managed care***
5 ***organization contracted by the cabinet to provide Medicaid services pursuant to this***
6 ***chapter*** shall ***not*** institute ~~[/nominal/]~~copayments, ***cost sharing,*** or similar charges to be
7 paid by ***any*** medical assistance recipients, their spouses, or parents, ***for any assistance***
8 ***provided pursuant to this chapter, federal law, or any federal Medicaid waiver***~~[under~~
9 ~~the provisions of Section 1916 of Title XIX of the Federal Social Security Act, 42 U.S.C.~~
10 ~~sec. 1396o].~~

11 ~~[(2) Copayments or similar charges shall not be imposed for the following services:~~

12 ~~(a) All services provided to children under eighteen (18) years of age;~~

13 ~~(b) All services furnished to pregnant women, if the services relate to the~~
14 ~~pregnancy or to any other medical condition which may complicate the~~
15 ~~pregnancy;~~

16 ~~(c) Emergency services including hospital, clinic, office, or other facility services~~
17 ~~which are necessary to prevent the death or serious impairment of the~~
18 ~~individual;~~

19 ~~(d) Services furnished to institutionalized individuals if the individual is required,~~
20 ~~as a condition of receiving services, to spend all but a minimal amount of~~
21 ~~income for personal needs;~~

22 ~~(e) Services furnished for an individual who is receiving hospice care as defined~~
23 ~~under Section 1905 of Title XIX of the Federal Social Security Act, 42 U.S.C.~~
24 ~~sec. 1396d(o); and~~

25 ~~(f) Other services excluded from cost sharing by federal law or regulation.~~

26 ~~(3) Standard nominal copayments per service, not to exceed amounts allowable under~~
27 ~~Section 1916 of Title XIX of the Federal Social Security Act, 42 U.S.C. sec. 1396o~~

1 shall be collected by the provider and charged for the following services:

2 ~~(a) Ambulance services which are provided to recipients in need of~~
3 ~~nonemergency health transportation services;~~

4 ~~(b) Nonemergency services delivered in a hospital emergency room; and~~

5 ~~(c) Prescription and over the counter drugs, subject to the limitation under~~
6 ~~subsection (6) of this section.~~

7 ~~(4) No provider participating in the Medical Assistance Program shall deny services to~~
8 ~~any eligible recipient due to the inability of a recipient to make the required~~
9 ~~copayment. This provision shall not excuse the recipient from liability for payment~~
10 ~~of the charge.~~

11 ~~(5) The cabinet shall promulgate administrative regulations under KRS Chapter 13A to~~
12 ~~implement the provisions of this section.~~

13 ~~(6) Any copayment for a prescription or over the counter drug shall not exceed one~~
14 ~~dollar (\$1).]~~

15 ➔Section 2. KRS 205.6485 is amended to read as follows:

16 (1) The Cabinet for Health and Family Services shall prepare a state child health plan
17 meeting the requirements of Title XXI of the Federal Social Security Act, for
18 submission to the Secretary of the United States Department of Health and Human
19 Services within such time as will permit the state to receive the maximum amounts
20 of federal matching funds available under Title XXI. The cabinet shall, by
21 administrative regulation promulgated in accordance with KRS Chapter 13A,
22 establish the following:

23 (a) The eligibility criteria for children covered by the Kentucky Children's Health
24 Insurance Program. However, no person eligible for services under Title XIX
25 of the Social Security Act 42 U.S.C. 1396 to 1396v, as amended, shall be
26 eligible for services under the Kentucky Children's Health Insurance Program
27 except to the extent that Title XIX coverage is expanded by KRS 205.6481 to

1 205.6495 and KRS 304.17A-340;

2 (b) The schedule of benefits to be covered by the Kentucky Children's Health
3 Insurance Program, which shall include preventive services, vision services
4 including glasses, and dental services including at least sealants, extractions,
5 and fillings, and which shall be at least equivalent to one (1) of the following:

6 1. The standard Blue Cross/Blue Shield preferred provider option under the
7 Federal Employees Health Benefit Plan established by U.S.C. sec.
8 8903(1);

9 2. A mid-range health benefit coverage plan that is offered and generally
10 available to state employees; or

11 3. Health insurance coverage offered by a health maintenance organization
12 that has the largest insured commercial, non-Medicaid enrollment of
13 covered lives in the state;

14 (c) The premium contribution per family of health insurance coverage available
15 under the Kentucky Children's Health Insurance Program with provisions for
16 the payment of premium contributions by families of children eligible for
17 coverage by the program based upon a sliding scale relating to family income.
18 Premium contributions shall be based on a six (6) month period not to exceed:

19 1. Ten dollars (\$10), to be paid by a family with income between one
20 hundred percent (100%) to one hundred thirty-three percent (133%) of
21 the federal poverty level;

22 2. Twenty dollars (\$20), to be paid by a family with income between one
23 hundred thirty-four percent (134%) to one hundred forty-nine percent
24 (149%) of the federal poverty level; and

25 3. One hundred twenty dollars (\$120), to be paid by a family with income
26 between one hundred fifty percent (150%) to two hundred percent
27 (200%) of the federal poverty level, and which may be made on a partial

1 payment plan of twenty dollars (\$20) per month or sixty dollars (\$60)
2 per quarter;

3 (d) ***There shall be no***~~[The level of]~~ copayments for services provided under the
4 Kentucky Children's Health Insurance Program~~[that shall not exceed those~~
5 ~~allowed by federal law]~~; and

6 (e) The criteria for health services providers and insurers wishing to contract with
7 the Commonwealth to provide the children's health insurance coverage.
8 However, the cabinet shall provide, in any contracting process for the
9 preventive health insurance program, the opportunity for a public health
10 department to bid on preventive health services to eligible children within the
11 public health department's service area. A public health department shall not
12 be disqualified from bidding because the department does not currently offer
13 all the services required by paragraph (b) of this subsection. The criteria shall
14 be set forth in administrative regulations under KRS Chapter 13A and shall
15 maximize competition among the providers and insurers. The Cabinet for
16 Finance and Administration shall provide oversight over contracting policies
17 and procedures to assure that the number of applicants for contracts is
18 maximized.

19 (2) Within twelve (12) months of federal approval of the state's Title XXI child health
20 plan, the Cabinet for Health and Family Services shall assure that a KCHIP program
21 is available to all eligible children in all regions of the state. If necessary, in order to
22 meet this assurance, the cabinet shall institute its own program.

23 (3) KCHIP recipients shall have direct access without a referral from any gatekeeper
24 primary care provider to dentists for covered primary dental services and to
25 optometrists and ophthalmologists for covered primary eye and vision services.

26 ➔Section 3. KRS 205.5591 is amended to read as follows:

27 (1) The cabinet shall provide oversight, guidance, and direction to Medicaid providers

1 delivering care using telehealth as defined in KRS 205.510.

2 (2) The cabinet shall:

3 (a) Develop policies and procedures to ensure the proper use and security for
4 telehealth, including but not limited to confidentiality and data integrity,
5 privacy and security, informed consent, privileging and credentialing,
6 reimbursement, and technology;

7 (b) Promote access to health care provided via telehealth;

8 (c) Maintain a list of Medicaid providers who may deliver telehealth services to
9 Medicaid recipients throughout the Commonwealth;

10 (d) Require that specialty care be rendered by a health care provider who is
11 recognized and actively participating in the Medicaid program; and

12 (e) Require that any required prior authorization requesting a referral or
13 consultation for specialty care be processed by the patient's primary care
14 provider and that any specialist coordinate care with the patient's primary care
15 provider.

16 (3) The cabinet or a Medicaid managed care organization shall not:

17 (a) Require a Medicaid provider to be physically present with a Medicaid
18 recipient, unless the provider determines that it is medically necessary to
19 perform those services in person;

20 (b) Require prior authorization, medical review, or administrative clearance for
21 telehealth that would not be required if a service were provided in person;

22 (c) Require a Medicaid provider to be employed by another provider or agency in
23 order to provide telehealth services that would not be required if that service
24 were provided in person;

25 (d) Require demonstration that it is necessary to provide services to a Medicaid
26 recipient through telehealth;

27 (e) Restrict or deny coverage of telehealth based solely on the communication

1 technology or application used to deliver the telehealth services; or

2 (f) Require a Medicaid provider to be part of a telehealth network.

3 (4) The Medicaid program or a Medicaid managed care organization shall require a
4 telehealth provider to be licensed in Kentucky in order to receive reimbursement for
5 telehealth services.

6 (5) The Medicaid program or a Medicaid managed care organization shall reimburse
7 for covered services provided to a Medicaid recipient through telehealth, as defined
8 in KRS 205.510. The department shall promulgate administrative regulations to
9 establish requirements for telehealth coverage and reimbursement, which shall be
10 equivalent to the coverage for the same service provided in person unless the
11 telehealth provider and the Medicaid program or a Medicaid managed care
12 organization contractually agree to a lower reimbursement rate for telehealth
13 services, or the department establishes a different reimbursement rate.

14 (6) ~~[Benefits for a service provided to a Medicaid recipient through telehealth may be
15 made subject to a deductible, copayment, or coinsurance requirement. A deductible,
16 copayment, or coinsurance applicable to a particular service provided through
17 telehealth shall not exceed the deductible, copayment, or coinsurance required by
18 the Medicaid program for the same service provided in person.]~~

19 ~~(7)~~ Nothing in this section shall be construed to require the Medicaid program or a
20 Medicaid managed care organization to:

21 (a) Provide coverage for telehealth services that are not medically necessary; or

22 (b) Reimburse any fees charged by a telehealth facility for transmission of a
23 telehealth encounter.

24 ~~(Z)~~~~(8)~~ The cabinet shall maintain telehealth policies and guidelines to providing care
25 that ensure that Medicaid-eligible citizens will have safe, adequate, and efficient
26 medical care, and that prevent waste, fraud, and abuse of the Medicaid program.